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Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 IO-10 ISO-00 AGR-05 CIAE-00 COME-00

INR-07 LAB-04 NSAE-00 RSC-01 SP-02 STR-01 TRSE-00

CIEP-01 FRB-03 OMB-01 L-02 /051 W
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FM USMISSION GENEVA
TO AMEMBASSY BOGOTA PRIORITY
INFO SECSTATE WASHDC PRIORITY 182
AMEMBASSY SAN SALVADOR PRIORITY

C O N F I D E N T I A L GENEVA 0417

BOGOTA: PASS MINISTER JURICH FROM PHELAN

E.O. 11652: GDS
TAGS: ETRD, CO
SUBJECT: USG/GOC BILATERAL TEXTILE NEGOTIATIONS

REF: A. SAL SALVADOR 0303
B. SAN SALVADOR 0304
C. SAN SALVADOR 0302

1. U.S. REP SUGGESTS PARA 3 DRAFT NOTE (REF A) BE AMENDED TO READ AS FOLLOWS: QUOTE. IN RECOGNITION OF THE FACT THAT LOW-PRICED IMPORTS OF THE CATEGORIES OF PRODUCTS INDICATED ABOVE FROM A NUMBER OF SOURCES HAVE CAUSED OR THREATENED TO CAUSE MARKET DISRUPTION IN THE UNITED STATES, SEVEN EXPORTING COUNTRIES WHICH HAVE ACCEPTED OR ACCEDED TO THE ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES HAVE AGREED TO LIMIT THEIR EXPORTS OF THESE CATEGORIES OF PRODUCTS TO THE UNITED STATES. THEREFORE, IN ORDER TO AVOID FURTHER MARKET DISRUPTION OR THE THREAT THEREOF BY IMPORTS OF THE PRODUCTS INDICATED ABOVE AND TO INCURE EQUITABLE TREATMENT TO THOSE COUNTRIES PARTY TO THE ARRANGEMENT WHICH ARE PRESENTLY LIMITING EXPORTS IN THESE CATEGORIES TO THE UNITED STATES, THE GOVERNMENT OF THE UNITED STATES IS, AS OF THE DATE OF THIS NOTE, INVOKING ITS RIGHTS UNDER ARTICLE 3
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OF THE ARRANGEMENT REGARDING INTERNATIONAL TRADE IN TEXTILES

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AND, PURSUANT TO THE PROVISIONS OF PARAGRAPH 3 OF THAT ARTICLE, REQUESTING THE GOVERNMENT OF COLUMBIA TO ENTER PROMPTLY INTO CONSULTATIONS WITH A VIEW TO REMOVING THE DISRUPTION. FURTHER, IN CONFORMITY WITH THE PROVISIONS OF PARAGRAPH 3 OF ARTICLE 3 OF THE ARRANGEMENT, THERE IS APPENDED, AS ANNEX A WHICH IS TO BE REGARDED AS AN INTEGRAL PART OF THIS NOTE, A FACTUAL STATEMENT DESCRIBING MARKET CONDITIONS, THE EFFECT OF SUCH IMPORTS ON THE UNITED STATES MARKET AND THE RECENT TRENDS OF SUCH IMPORTS FROM COLOMBIA. END QUOTE.

2. RATIONALA FOR AMENDED LANGUAGE DRAFT PARAGRAPH CITED ABOVE IS AS FOLLOWS: A) PRICE ELEMENT IS INDISPENSIBLE IN ESTABLISHING MARKET DISRUPTION; HENCE, "LOW-PRICED IMPORTS"; B) IMPORTS FROM "ALL SOURCES" WOULD INCLUDE WESTERN EUROPE, HENCE "NUMBER OF SOURCES" MORE APPROPRIATE AND CAN BE DIRECTLY RELATED TO TOTAL IMPORTS OF LOW-PRICED GOODS; C) PHRASE "FURTHER MARKET DISRUPTION" ESSENTIAL TO ESTABLISH EXISTENCE OF STATE OF OR THREAT OF MARKET DISRUPTION IN U.S. MARKET WHICH COULD BE EXASCERBATED OR FURTHR THREATENED BY ADDITIONAL LOW-PRICE IMPORTS FROM COLOMBIA (WE HAVE TO ARGUE THE "CUMULATIVE CONCEPT OF MARKET DISRUPTION", I.E., IT IS TOTALITY OF LOW-PRICED IMPORTS FROM ALL LOW-PRICE SOURCES WHICH CAUSES OR THREATENS MARKET DISRUPTION); D) LANGUAGE IN THIS DRAFT PARAGRAPH SHOULD CLEARLY START 60 DAY CLOCK RUNNING AT SPECIFIED TIME, HENCE "AS OF THE DATE OF THIS NOTE"; E) PARA 3 OF ARTICLE 3 STIPULATES THAT THE IMPORTING COUNTRY "SHALL SEEK CONSULTATIONS" AND A CLEAR STATEMENT THIS REQUIREMENT IS BETTER PLACED IN THIS DRAFT PARAGRAPH DIRECTLY RELATED TO INVOCATION OF ARTICLE 3 RATHER THAT IN FIFTH PARAGRAPH DRAFT NOTE WHICH SAYS U.S. "IS PREPARED CONSULT IF GOC DESIRES," WHICH PHRASING, IN U.S. REPS VIEW, RUNS FAIRLY CLOSE TO AN ARTICLE 3 PARA 6 OVERTURE; AND, F) SUGGEST-ED REARRANGEMENT LAST SENTENCE PURELY ORTHOGRAPHIC.

3. PARA 5 OF DRAFT NOTE SHOULD BE DELETED. REQUEST FOR CONSULTATIONS NOW DEALT WITH IN SUGGESTED PARA 3 OF DRAFT NOTE AND REMAINING OFFER OF "ASSISTANCE" BY U.S. CUSTOMS (IN PARA 5 DRAFT) IN ADVANCE OF CONSULTATIONS BEING SOUGHT SEEMS A BIT PREMATURE - AND IS CERTAIN TO BE REGARDED SO BY TSB.

4. ANNEX A OF DRAFT NOTE (MARKET STATEMENTS) IS GOOD BUT HAS CONFIDENTIAL

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ONE CRITICAL DEFICIENCY; I.E., LACK OF ANY DATA ON COMPARATIVE PRICES. IN EACH CATEGORY, WE SHOULD SHOW THAT LANDED DUTY PAID PRICES OF COLOMBIAN GOODS WERE A) LOW-PRICES VIS-A-VIS DOMESTIC AND PRODUCTION AND, B) IN A SIMILAR PRICE RANGE AS IMPORTS OF SIMILAR GOODS FROM MAJOR FAR EASTERN SUPPLIERS. TSB, (INCLUDING U.S. REP.) HAS BEEN RATHER STERN ON THIS QUESTION WHEN REVIEWING ARTICLE 3 ACTIONS BY OTHER COUNTRIES; E.G. AUSTRALIA, CANADA, AND NORDICS. IF NOT PROVIDED IN MARKET

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STATEMENT APPENDED TO NOTE, TSB IS CERTAIN TO REQUEST SUCH
DATA IN COURSE OF REVIEW. THEREFORE SUGGEST THAT
STATEMENTS COVERING EACH CATEGORY SHOULD CONTAIN COMPARATIVE
PRICE DATA WHICH IS NECESSARY SUSTAIN ANY ALLEGATION MARKET
DISRUPTION OR THREAT THEREOF.

5. WITH REGARD TO QUESTIONS POSED REFTEL C), U.S. REP HAS
FOLLOWING PRELIMINARY COMMENT: IT DIFFICULT TO ASSESS OUTCOME
OF TSB DISCUSSION IF COLOMBIA LODGES COMPLAINT. MUCH WILL
DEPEND ON WHAT DEVELOPS IN COURSE US-COLOMBIAN CONSULTATIONS
UNDER ARTICLE 3. TSB WOULD, I BELIEVE, HOLD COLOMBIA OBLIGATED
TO CONSULT IN GOOD FAITH WITH U.S. BEFORE REPEAT BEFORE
LODGING COMPLAINT. IF CONSULTATIONS DO NOT PRODUCE AGREEMENT AND
COLOMBIA SEES FIT TO COMPLAIN TO TSB, CENTRAL ISSUE IN TSB
EXAMINATION WILL HINGE AROUND A BASIC ISSUE WHICH, TO DATE, IS
STILL UNRESOLVED IN TSB; I.E., VALIDITY OF "CUMULATIVE CONCEPT" OF
MARKET DISRUPTION. IT IS CLEAR FROM PRIOR DISCUSSIONS THIS
QUESTION IN TSB THAT IMPORTING COUNTRY REPS SUPPORT "CUMULATIVE
CONCEPT" AND EXPORTING COUNTRY TENDS TO REJECT IT. IF
ALL MEMBERS STAND ON PRESENT POSITIONS A CONSENSUS WILL
NOT BE POSSIBLE, WITH A "HUNG JURY" AND NO RECOMMENDATIONS
THE OUTCOME. ONCE LACK OF CONSENSUS BECOMES CLEAR, THERE
WILL BE A TENDENCY TO REQUEST REPS OF U.S. AND COLOMBIA TO
APPEAR BEFORE TSB FOR "FURTHER QUESTIONING" AND AFTER THAT
EVERY EFFORT WILL BE MADE TO "RECONCILE" THE PARTIES AT ISSUE.
FOREGOING SCENARIO HAS PRECEDENT IN TSB HANDLING OF AUSTRALIA-
KOREA ARTICLE 3 COMPLAINT CASE. AUSTRALIA HAD A WEAK CASE, AND
THEN AGREED RESUME NEGOTIATION WITH KOREA WHICH RESULTED IN
CONCLUSION OF SELECTIVE BILATERAL AGREEMENT. IF PROPOSED U.S.
ACTION RESULTS IN COLOMBIAN COMPLAINT, U.S. DEFENSE MUST REST
ON VALIDITY OF CUMULATIVE CONCEPT OF MARKET DISRUPTION (OR THREAT).
EUQITY ARGUEMNTS WILL NOT STAND ALONE. THEY ARE SECONDARY AND
SUPPORTIVE ONLY TO A GOOD DISRUPTION (OR THREAT) ARGUMENT.
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6. JURICH REQUESTED CABLE PROMPTLY FINAL TEXT OF NOTE AND
ANNEXES AS HANDED TO GOC AS PARA 3 OF ARTICLE REQUIRES
COMMUNICATION ALL DETAILS OF OUR REQUEST "AT THE SAME TIME" TO
THE TSB CHAIRMAN. NO REPEAT NO ACTION WILL BE TAKEN BY TSB
UNTIL SUCH TIME AS AGREEMENT REACHED OR DIFINITELY NOT REACHED
IN COURSE CONSULTATIONS (60 DAYS) OR UNTIL EITHER PARTY OVERTLY
TAKES MATTER TO TSB BEFORE END 60 DAY PERIOD UNDER ARTICLE 3
PARA 5(II) PROVISION. ABRAMS

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